

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01066R

Parcel No. 8947-11-254-003

Debra Gnewuch,
Appellant,

v.

Sioux City Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 30, 2015. Debra Gnewuch was self-represented and requested her appeal without hearing. Attorney Jack Faith was counsel for the Sioux City Board of Review.

The subject property is a one-story, residential home located at 4328 Fillmore Street, Sioux City. It was built in 1944 and has 1024 square feet of living area; a full, unfinished basement; a covered deck; a small open porch; and a one-car detached garage. The site is 0.230 acres.

The property's January 1, 2015, assessment was \$96,800, allocated as \$20,400 in land value and \$76,400 to dwelling value. Gnewuch protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition. Gnewuch then appealed to PAAB asserting the correct assessment is \$75,000.

Findings of Fact

Gnewuch purchased the subject property in October 2013 for \$105,000.

The following chart is a summary of the five properties Gnewuch submitted as equity comparables to the Board of Review.

	2015 Assessed Value	Grade	Gross Living Area (GLA)	Year Built	Basement Finish	AV/SF
Subject	\$96,800	4+00	1024	1944	None	\$94.53
4315 Fillmore St	\$63,800	4-05	850	1950	None	\$75.06
4342 Fillmore St	\$74,700	5+05	1408	1928	650 Fin	\$53.05
4316 Fillmore St	\$68,100	5+10	1488	1925	No Fin	\$45.77
4349 Fillmore St	\$72,800	5+05	1420	1910	No Fin	\$51.27
4329 Fillmore St	\$61,600	5+10	1073	1920	240 Fin	\$57.41

Gnewuch did not offer any analysis of the properties. PAAB notes all of the properties are lower quality grades (5+05 and 5-10) compared to the subject's grade (4+00).

Additionally several properties are over 400 square feet larger than the subject, and two have basement finish. These differences would affect the assessed values; for example larger properties typically have a lower value per-square-foot. Moreover, none of the properties recently sold; and Gnewuch did not submit any other opinion of market value for the properties. Therefore, an assessment/sale ratio analysis, which is necessary to support an equity claim, could not be developed.

The Board of Review did not submit any evidence.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Gnewuch offered five properties she considered comparable to hers for an equity analysis to the Board of Review. The record indicates none of the properties has recently sold; and she did not submit evidence of the properties' market values to complete an assessment/sales ratio analysis.

For the foregoing reasons, the Board finds Gnewuch failed to show her property is inequitably assessed as compared to like properties.

Order

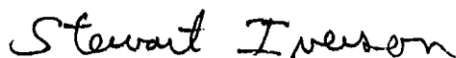
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

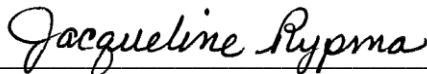
Dated this 22nd day of February, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Debra Gnewuch

Jack Faith